

REMARKS

The Office Action of June 26, 2007 has been carefully studied. No claims have been allowed as yet. In this amendment, claim 1 is restricted to the particular zeolite ZBM-30 produced on the basis of a triethylenetetramine structuring agent. In addition, new claim 17 specifies that the TON zeolite comprises ZSM-22, and new claim 18, the most comprehensive claim requires the at least one hydro-dehydrogenating element to be platinum.

The following remarks correspond to the order of the rejections in the Office Action:

Obviousness-Type Double Patenting

This rejection is a provisional rejection because the conflicting claims have not in fact been patented. If the copending application is eventually allowed, Applicants will then reconsider the double patenting rejection in light of the allowed claims. At the present time, Applicants' claims which require two zeolites, one a TON structure-type zeolite and the other a ZBM-30 zeolite synthesized with triethylenetetramine as a structuring agent are drawn to an unobvious combination since there would be no reason for one of ordinary skill in the art to combine these two zeolites in particular for purposes of preparing an improved catalyst. Thus, Applicants will not at this juncture file a terminal disclaimer, but reserve the right to file one in the future.

Claim Rejections - 35 U.S.C. § 102

This rejection is predicated on two different references which are discussed below:

Benazzi et al. (WO 02/48289 Equivalent to U.S. Patent Application No. 2004/0065585)

This rejection was applied to only claims 1-5 and in particular not to claim 15. Inasmuch as the substance of claim 15 is incorporated into claim 1, the rejection must be withdrawn.

European Patent No. 0065400

Claims 1-5 and 15 were rejected over this patent, but is respectfully submitted that this rejection is erroneous. On the one hand, the European patent does not describe a catalyst containing two specific zeolites, one a TON zeolite and the other ZBM-30 zeolite. As for the fact that the patent teaches that NU-10 is made with triethylenetetramine as a structuring agent, this relates to a species of a TON catalyst and not to a ZBM-30 catalyst. Accordingly, it is respectfully submitted that this rejection should be withdrawn.

Applicants also wish to indicate for the record that EP-A-46504 which is listed in the Applicants' Information Disclosure Statement and mentioned on page 5, line 4 of the specification describes the synthesis of ZBM-30 zeolite. On page 6 of this document are five different structuring agents of which triethylenetetramine is one. However, the patent on page 4, lines 6-10 specifies that organic amines including di, tri and tetramines are included, leaving the reader to conclude that the specified examples including ethylene diamine as well as the tabulated examples are merely various embodiments which can be utilized. There is no discussion as to why one particular structuring agent should be selected in formulating a catalyst. It is noted, however, that there are more examples of the use of hexamethylenediamine than other structuring agents.

It should also be noted that the ZBM-30 catalyst mentioned in U.S. Patent Application Publication No. 2004/0065585 is set forth as one of three possibilities, the other two being EU-2 and EU-11. Thus, it is understandable that the Examiner has not made a rejection under 35 U.S.C. 103 because there would be no reason for one of ordinary skill in the catalyst art to select one of three different zeolites on the one hand and then to select a single structuring agent out of many. Accordingly, Applicants' invention is not only novel, but also clearly unobvious.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/I. William Millen/

I. William Millen, Reg. No. 19,544
Attorney for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: PET-2135

Date: December 12, 2007
IWM:pdv